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Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE ENROLLED ACT No. 1554

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AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 27-1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The following definitions apply to this section:

(1) "Acceptable collateral" means, as to securities lending transactions:

- (A) cash;
- (B) cash equivalents;
- (C) letters of credit; and
- (D) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) "Acceptable collateral" means, as to lending foreign securities, sovereign debt that is rated:

- (A) A- or higher by Standard & Poor's Corporation;
- (B) A3 or higher by Moody's Investors Service, Inc.;
- (C) A- or higher by Duff and Phelps, Inc.; or
- (D) 1 by the Securities Valuation Office.

(3) "Acceptable collateral" means, as to repurchase transactions:

- (A) cash;
- (B) cash equivalents; and

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(C) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) "Acceptable collateral" means, as to reverse repurchase transactions:

- (A) cash; and
- (B) cash equivalents.

(5) "Admitted assets" means assets permitted to be reported as admitted assets on the statutory financial statement of the life insurance company most recently required to be filed with the commissioner.

(6) "Business entity" means:

- (A) a sole proprietorship;
- (B) a corporation;
- (C) a limited liability company;
- (D) an association;
- (E) a partnership;
- (F) a joint stock company;
- (G) a joint venture;
- (H) a mutual fund;
- (I) a trust;
- (J) a joint tenancy; or
- (K) other, similar form of business organization;

whether organized for-profit or not-for-profit.

(7) "Cash" means any of the following:

- (A) United States denominated paper currency and coins.
- (B) Negotiable money orders and checks.
- (C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(8) "Cash equivalent" means any of the following:

- (A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
- (B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
- (C) A government money market mutual fund.
- (D) A class one money market mutual fund.

(9) "Class one money market mutual fund" means a money

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market mutual fund that at all times qualifies for investment pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication either using the bond class one reserve factor or because it is exempt from asset valuation reserve requirements.

(10) "Dollar roll transaction" means two (2) simultaneous transactions that have settlement dates not more than ninety-six (96) days apart and that meet the following description:

(A) In one (1) transaction, a life insurance company sells to a business entity one (1) or both of the following:

(i) Asset-backed securities that are issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation or the successor of an entity referred to in this item.

(ii) Other asset-backed securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended.

(B) In the other transaction, the life insurance company is obligated to purchase from the same business entity securities that are substantially similar to the securities sold under clause (A).

(11) "Domestic jurisdiction" means:

(A) the United States;

(B) any state, territory, or possession of the United States;

(C) the District of Columbia;

(D) Canada; or

(E) any province of Canada.

(12) "Earnings available for fixed charges" means income, after deducting:

(A) operating and maintenance expenses other than expenses that are fixed charges;

(B) taxes other than federal and state income taxes;

(C) depreciation; and

(D) depletion;

but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of a business entity.

(13) "Fixed charges" includes:

(A) interest on funded and unfunded debt;

(B) amortization of debt discount; and

(C) rentals for leased property.

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(14) "Foreign currency" means a currency of a foreign jurisdiction.

(15) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

(16) "Government money market mutual fund" means a money market mutual fund that at all times:

(A) invests only in:

(i) obligations that are issued, guaranteed, or insured by the United States; or

(ii) collateralized repurchase agreements composed of obligations that are issued, guaranteed, or insured by the United States; and

(B) qualifies for investment without a reserve pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

(17) "Guaranteed or insured," when used in reference to an obligation acquired under this section, means that the guarantor or insurer has agreed to:

(A) perform or insure the obligation of the obligor or purchase the obligation; or

(B) be unconditionally obligated, until the obligation is repaid, to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(18) "Investment company" means:

(A) an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended; or

(B) a person described in Section 3(c) of the Investment Company Act of 1940.

(19) "Investment company series" means an investment portfolio of an investment company that is organized as a series company to which assets of the investment company have been specifically allocated.

(20) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit that is:

(A) issued or confirmed by; and

(B) payable and presentable at;

a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication. To constitute acceptable collateral for the purposes

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of paragraph 29 of subsection (b) of this section, a letter of credit must have an expiration date beyond the term of the subject transaction.

(21) "Market value" means the following:

- (A) As to cash, the amount of the cash.
- (B) As to cash equivalents, the amount of the cash equivalents.
- (C) As to letters of credit, the amount of the letters of credit.
- (D) As to a security as of any date:
  - (i) the price for the security on that date obtained from a generally recognized source, or the most recent quotation from such a source; or
  - (ii) if no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction;

plus accrued but unpaid income on the security to the extent not included in the price as of that date.

(22) "Money market mutual fund" means a mutual fund that meets the conditions of 17 CFR 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(23) "Multilateral development bank" means an international development organization of which the United States is a member.

(24) "Mutual fund" means:

- (A) an investment company; or
- (B) in the case of an investment company that is organized as a series company, an investment company series;

that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(25) "Obligation" means any of the following:

- (A) A bond.
- (B) A note.
- (C) A debenture.
- (D) Any other form of evidence of debt.

(26) "Person" means:

- (A) an individual;
- (B) a business entity;
- (C) a multilateral development bank; or
- (D) a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.

(27) "Repurchase transaction" means a transaction in which a life insurance company purchases securities from a business entity

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that is obligated to repurchase the purchased securities or equivalent securities from the life insurance company at a specified price, either within a specified period of time or upon demand.

(28) "Reverse repurchase transaction" means a transaction in which a life insurance company sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

(29) "Securities lending transaction" means a transaction in which securities are loaned by a life insurance company to a business entity that is obligated to return the loaned securities or equivalent securities to the life insurance company, either within a specified period of time or upon demand.

(30) "Securities Valuation Office" refers to:

(A) the Securities Valuation Office of the National Association of Insurance Commissioners; or

(B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.

(31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended).

(32) "Supported", when used in reference to an obligation, by whomever issued or made, means that:

(a) repayment of the obligation by:

(i) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction; or

(ii) a business entity;

as the case may be, is secured by real or personal property of value at least equal to the principal amount of the obligation by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in such property for the benefit of the holder of the obligation; and

(b) the:

(i) domestic jurisdiction or administration, agency, authority, or instrumentality of the domestic jurisdiction; or

(ii) business entity;

as the case may be, has entered into a firm agreement to rent or use the property pursuant to which it is obligated to pay

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money as rental or for the use of such property in amounts and at times which shall be sufficient, after provision for taxes upon and other expenses of use of the property, to repay in full the obligation with interest and when such agreement and the money obligated to be paid thereunder are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security for the repayment of the obligation consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial, fixed period of the lease or contract, of less than one hundred percent (100%) of the obligation if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of such period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(b) Investments of domestic life insurance companies at the time they are made shall conform to the following categories, conditions, limitations, and standards:

1. Obligations of a domestic jurisdiction or of any administration, agency, authority, or instrumentality of a domestic jurisdiction.

2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction.

3. Obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund or shares of any institution whose deposits are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation to the extent that such shares are insured, obligations issued or guaranteed by a multilateral development bank, and obligations issued or guaranteed by the African Development Bank.

4. Obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village, or other civil administration,

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agency, authority, instrumentality, or subdivision of a domestic jurisdiction, providing such obligations are authorized by law and are:

- (a) direct and general obligations of the issuing, guaranteeing or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;
- (b) payable from designated revenues pledged to the payment of the principal and interest thereof; or
- (c) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment. The area to which such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

5. Loans evidenced by obligations secured by first mortgage liens on otherwise unencumbered real estate or otherwise unencumbered leaseholds having at least fifty (50) years of unexpired term, such real estate, or leaseholds to be located in a domestic jurisdiction. Such loans shall not exceed eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by:

- (a) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of any domestic jurisdiction; or
- (b) a private mortgage insurance corporation approved by the department.

If improvements constitute a part of the value of the real estate or leaseholds, such improvements shall be insured against fire for the benefit of the mortgagee in an amount not less than the difference between the value of the land and the unpaid balance of the loan.

For the purpose of this section, real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

- (1) liens inferior to the lien securing the loan made by the life insurance company;
- (2) taxes or assessment liens not delinquent;
- (3) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls, or utility connections;
- (4) building restrictions or other restrictive covenants; or
- (5) an unassigned lease reserving rents or profits to the owner.

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A loan that is authorized by this paragraph remains qualified under this paragraph notwithstanding any refinancing, modification, or extension of the loan. Investments authorized by this paragraph shall not in the aggregate exceed forty-five percent (45%) of the life insurance company's admitted assets.

6. Loans evidenced by obligations guaranteed or insured, but only to the extent guaranteed or insured, by a domestic jurisdiction or by any agency, administration, authority, or instrumentality of any domestic jurisdiction, and secured by second or subsequent mortgages or deeds of trust on real estate or leaseholds, provided the terms of the leasehold mortgages or deeds of trust shall not exceed four-fifths (4/5) of the unexpired lease term, including enforceable renewable options remaining at the time of the loan.

7. Real estate contracts involving otherwise unencumbered real estate situated in a domestic jurisdiction, to be secured by the title to such real estate, which shall be transferred to the life insurance company or to a trustee or nominee of its choosing. For statement and deposit purposes, the value of a contract acquired pursuant to this paragraph shall be whichever of the following amounts is the least:

- (a) eighty percent (80%) of the contract price of the real estate;
- (b) eighty percent (80%) of the fair value of the real estate at the time the contract is purchased, such value to be determined in a manner satisfactory to the department; or
- (c) the amount due under the contract.

For the purpose of this paragraph, real estate shall not be deemed encumbered by reason of the existence in relation thereto of: (1) taxes or assessment liens not delinquent; (2) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls or utility connections; (3) building restrictions or other restrictive covenants; or (4) an unassigned lease reserving rents or profits to the owner. Fire insurance upon improvements constituting a part of the real estate described in the contract shall be maintained in an amount at least equal to the unpaid balance due under the contract or the fair value of improvements, whichever is the lesser.

8. Improved or unimproved real property, whether encumbered or unencumbered, or any interest therein, held directly or evidenced by joint venture interests, general or limited partnership interests, trust certificates, or any other instruments, and acquired by the life insurance company as an investment, which real property, if unimproved, is developed within five (5) years. Real property acquired for investment under this paragraph, whether leased or intended to be developed for

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commercial or residential purposes or otherwise lawfully held, is subject to the following conditions and limitations:

- (a) The real estate shall be located in a domestic jurisdiction.
- (b) The admitted assets of the life insurance company must exceed twenty-five million dollars (\$25,000,000).
- (c) The life insurance company shall have the right to expend from time to time whatever amount or amounts may be necessary to conform the real estate to the needs and purposes of the lessee and the amount so expended shall be added to and become a part of the investment in such real estate.
- (d) The value for statement and deposit purposes of an investment under this paragraph shall be reduced annually by amortization of the costs of improvement and development, less land costs, over the expected life of the property, which value and amortization shall for statement and deposit purposes be determined in a manner satisfactory to the commissioner. In determining such value with respect to the calendar years in which an investment begins or ends with respect to a point in time other than the beginning or end of a calendar year, the amortization provided above shall be made on a proportional basis.
- (e) Fire insurance shall be maintained in an amount at least equal to the insurable value of the improvements or the difference between the value of the land and the value at which such real estate is carried for statement and deposit purposes, whichever amount is smaller.
- (f) Real estate acquired in any of the manners described and sanctioned under section 3 of this chapter, or otherwise lawfully held, except paragraph 5 of that section which specifically relates to the acquisition of real estate under this paragraph, shall not be affected in any respect by this paragraph unless such real estate at or subsequent to its acquisition fulfills the conditions and limitations of this paragraph, and is declared by the life insurance company in a writing filed with the department to be an investment under this paragraph. The value of real estate acquired under section 3 of this chapter, or otherwise lawfully held, and invested under this paragraph shall be initially that at which it was carried for statement and deposit purposes under that section.
- (g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no

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structures intended for commercial, industrial, or residential occupancy, and "improved real property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and deposit purposes as defined in this paragraph, held under this paragraph at the same time.

9. Deposits of cash in a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or certificates of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

10. Bank and bankers' acceptances and other bills of exchange of kinds and maturities eligible for purchase or rediscount by federal reserve banks.

11. Obligations that are issued, guaranteed, assumed, or supported by a business entity organized under the laws of a domestic jurisdiction and that are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

Investments may also be made under this paragraph in obligations that have not received a rating if the earnings available for fixed charges of the business entity for the period of its five (5) fiscal years next preceding the date of purchase shall have averaged per year not less than one and one-half (1 1/2) times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such earnings available for fixed charges shall have been not less than one and one-half (1 1/2) times its fixed charges



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for such year. However, if the business entity is a finance company or other lending institution at least eighty percent (80%) of the assets of which are cash and receivables representing loans or discounts made or purchased by it, the multiple shall be one and one-quarter ( $1 \frac{1}{4}$ ) instead of one and one-half ( $1 \frac{1}{2}$ ).

11.(A) Obligations issued, guaranteed, or assumed by a business entity organized under the laws of a domestic jurisdiction, which obligations have not received a rating or, if rated, have not received a rating that would qualify the obligations for investment under paragraph 11 of this section. Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

12. Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation organized under the laws of a domestic jurisdiction, which over the period of the seven (7) fiscal years immediately preceding the date of purchase earned an average amount per annum at least equal to five percent (5%) of the par value of its common and preferred stock (or, in the case of stocks having no par value, of its issued or stated value) outstanding at date of purchase, or which over such period earned an average amount per annum at least equal to two (2) times the total of its annual interest charges, preferred dividends and dividends guaranteed by it, determined with reference to the date of purchase. No investment shall be made under this paragraph in a stock upon which any dividend is in arrears or has been in arrears for ninety (90) days within the immediately preceding five (5) year period.

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years immediately preceding purchase earned an average amount per annum at least equal to six percent (6%) of the par value of its capital stock (or, in the case of stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, but the conditions and limitations of this paragraph shall not apply to the special area of investment to which paragraph 23 of this section pertains.

13.(A) Stock or shares of any mutual fund that:

- (a) has been in existence for a period of at least five (5) years immediately preceding the date of purchase, has assets of not less than twenty-five million dollars (\$25,000,000) at the date of purchase, and invests substantially all of its assets in investments permitted under this section; or
- (b) is a class one money market mutual fund or a class one bond mutual fund.



Investments authorized by this paragraph 13(A) in mutual funds having the same or affiliated investment advisers shall not at any one (1) time exceed in the aggregate ten percent (10%) of the life insurance company's admitted assets. The limitations contained in paragraph 22 of this subsection apply to investments in the types of mutual funds described in subparagraph (a). For the purposes of this paragraph, "class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

The aggregate amount of investments under this paragraph may be limited by the commissioner if the commissioner finds that investments under this paragraph may render the operation of the life insurance company hazardous to the company's policyholders or creditors or to the general public.

14. Loans upon the pledge of any of the investments described in this section other than real estate and those qualifying solely under paragraph 20 of this subsection, but the amount of such a loan shall not exceed seventy-five percent (75%) of the value of the investment pledged.

15. Real estate acquired or otherwise lawfully held under the provisions of IC 27-1, except under paragraph 7 or 8 of this subsection, which real estate as an investment shall also include the value of improvements or betterments made thereon subsequent to its acquisition. The value of such real estate for deposit and statement purposes is to be determined in a manner satisfactory to the department.

15.(A) Tangible personal property, equipment trust obligations, or other instruments evidencing an ownership interest or other interest in tangible personal property when the life insurance company purchasing such property has admitted assets in excess of twenty-five million dollars (\$25,000,000), and where there is a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use of such personal property from a corporation whose obligations would be eligible for investment under the provisions of paragraph 11 of this subsection, provided that the aggregate of such payments together with the estimated salvage value of such property at the end of its minimum useful life, to be determined in a manner acceptable to the insurance commissioner, and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that each net investment in tangible personal property for which any single

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private corporation is obligated to pay rental, purchase, or other obligatory payments thereon does not exceed one-half of one percent (1/2%) of the life insurance company's admitted assets, and the aggregate net investments made under the provisions of this paragraph do not exceed five percent (5%) of the life insurance company's admitted assets.

16. Loans to policyholders of the life insurance company in amounts not exceeding in any case the reserve value of the policy at the time the loan is made.

17. A life insurance company doing business in a foreign jurisdiction may, if permitted or required by the laws of such jurisdiction, invest funds equal to its obligations in such jurisdiction in investments legal for life insurance companies domiciled in such jurisdiction or doing business therein as alien companies.

17.(A) Investments in (i) obligations issued, guaranteed, assumed, or supported by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction and (ii) preferred stock and common stock issued by any such business entity, if the obligations of such foreign jurisdiction or business entity, as appropriate, are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

If the obligations issued by a business entity organized under the laws of a foreign jurisdiction have not received a rating, investments may nevertheless be made under this paragraph in such obligations and in the preferred and common stock of the business entity if the earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times its average fixed charges applicable to such period, and if during either of the last two (2) years of such period, the earnings available for fixed charges were at least three (3) times its fixed charges for such year. Investments authorized by this paragraph in a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life

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insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

- (a) obligations issued, guaranteed, or assumed by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction; and
- (b) preferred stock and common stock issued by a business entity organized under the laws of a foreign jurisdiction;

which investments are not eligible for investment under paragraph 17.(A).

Investments authorized by this paragraph 17(B) shall not in the aggregate exceed five percent (5%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, if investments authorized by this paragraph 17(B) are denominated in a foreign currency, the investments shall not, as to such currency, exceed two percent (2%) of the life insurance company's admitted assets. Investments authorized by this paragraph 17(B) in any one (1) foreign jurisdiction shall not exceed two percent (2%) of the life insurance company's admitted assets.

Investments authorized by paragraph 17(A) of this subsection and this paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets.

18. To protect itself against loss, a company may in good faith receive in payment of or as security for debts due or to become due, investments or property which do not conform to the categories, conditions, limitations, and standards set out above.

19. A life insurance company may purchase for its own benefit any of its outstanding annuity or insurance contracts or other obligations and the claims of holders thereof.

20. A life insurance company may make investments although not conforming to the categories, conditions, limitations, and standards contained in paragraphs 1 through 11, 12 through 19, and 29 through 30.(A) of this subsection, but limited in aggregate amount to the lesser of:

- (a) ten percent (10%) of the company's admitted assets; or
- (b) the aggregate of the company's capital, surplus, and contingency reserves reported on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

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This paragraph 20 does not apply to investments authorized by paragraph 11.(A) of this subsection.

20.(A) Investments under paragraphs 1 through 20 and paragraphs 29 through 30.(A) of this subsection are subject to the general conditions, limitations, and standards contained in paragraphs 21 through 28 of this subsection.

21. Investments in obligations (other than real estate mortgage indebtedness) and capital stock of, and in real estate and tangible personal property leased to, a single corporation, shall not exceed two percent (2%) of the life insurance company's admitted assets, taking into account the provisions of section 2.2(h) of this chapter. The conditions and limitations of this paragraph shall not apply to investments under paragraph 13(A) of this subsection or the special area of investment to which paragraph 23 of this subsection pertains.

22. Investments in:

- (a) preferred stock; and
- (b) common stock;

shall not, in the aggregate, exceed twenty percent (20%) of the life insurance company's admitted assets, exclusive of assets held in segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1. These limitations shall not apply to investments for the special purposes described in paragraph 23 of this subsection nor to investments in connection with segregated accounts provided for in class 1(c) of IC 27-1-5-1.

23. ~~Limitations defined in paragraphs 13, 20, 21, 22, and 26 of this~~ **Investments in subsidiary companies must be made in accordance with IC 27-1-23-2.6.** ~~subsection upon the right of a life insurance company to invest in obligations, and capital stock, of corporations shall be inapplicable when, within IC 27-2-9, the result of such investment, whether in one (1) or more transactions, is to effect, between a life insurance company and another company, a relationship of primary and subsidiary companies, or to enlarge a life insurance company's investment in its subsidiary insurance company. However, except as otherwise provided in IC 27-2-9-3(e), the total of a life insurance company's investments in a company or companies to which it stands in the relation of primary company shall not at any time exceed ten percent (10%) of its admitted assets. In the event that a primary and subsidiary relationship ceases to exist between a life insurance company and another company, the life insurance company shall have until December 31 of the succeeding calendar year and such additional period of time as the commissioner may determine within which to conform its investments in stocks and securities of such other~~





~~company to the conditions and limitations defined in this section, exclusive of this paragraph.~~

24. No investment, other than commercial bank deposits and loans on life insurance policies, shall be made unless authorized by the life insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

25. No life insurance company shall subscribe to or participate in any syndicate or similar underwriting of the purchase or sale of securities or property or enter into any transaction for such purchase or sale on account of said company, jointly with any other corporation, firm, or person, or enter into any agreement to withhold from sale any of its securities or property, but the disposition of its assets shall at all times be within its control. Nothing contained in this paragraph shall be construed to invalidate or prohibit an agreement by two (2) or more companies to join and share in the purchase of investments for bona fide investment purposes.

26. No life insurance company may invest in the stocks or obligations, except investments under paragraphs 9 and 10 of this subsection, of any corporation in which an officer of such life insurance company is either an officer or director. However, this limitation shall not apply with respect to such investments in:

- (a) a corporation which is a subsidiary or affiliate of such life insurance company; or
- (b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

27. Except for the purpose of mutualization provided for in section 23 of this chapter, or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the life insurance company's officers, employees, or agents, no life insurance company shall invest in its own stock.

28. In applying the conditions, limitations, and standards prescribed in paragraphs 11, 12, and 13 of this subsection to the stocks or obligations of a corporation which in the seven (7) year period preceding purchase of such stocks or obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated.

29. A. Before a life insurance company may engage in securities lending transactions, repurchase transactions, reverse repurchase

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transactions, or dollar roll transactions, the life insurance company's board of directors must adopt a written plan that includes guidelines and objectives to be followed, including the following:

- (1) A description of how cash received will be invested or used for general corporate purposes of the company.
- (2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.
- (3) A statement of the extent to which the company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

B. A life insurance company must enter into a written agreement for all transactions authorized by this paragraph, other than dollar roll transactions. The written agreement:

- (1) must require the termination of each transaction not more than one (1) year after its inception or upon the earlier demand of the company; and
- (2) must be with the counterparty business entity, except that, for securities lending transactions, the agreement may be with an agent acting on behalf of the life insurance company if:

(A) the agent is:

- (i) a business entity, the obligations of which are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;
- (ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or
- (iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

- (1) invested:
  - (A) in accordance with this section 2; and
  - (B) in a manner that recognizes the liquidity needs of the transaction; or
- (2) used by the life insurance company for its general corporate

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purposes.

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

- (1) possession of the acceptable collateral;
- (2) a perfected security interest in the acceptable collateral; or
- (3) in the case of a jurisdiction outside the United States:
  - (A) title to; or
  - (B) rights of a secured creditor to;
 the acceptable collateral.

E. The limitations set forth in paragraphs 17 and 21 of this subsection do not apply to transactions under this paragraph 29. For purposes of calculations made to determine compliance with this paragraph, no effect may be given to the future obligation of the life insurance company to:

- (1) resell securities, in the case of a repurchase transaction; or
- (2) repurchase securities, in the case of a reverse repurchase transaction.

F. A life insurance company shall not enter into a transaction under this paragraph if, as a result of the transaction, and after giving effect to the transaction:

- (1) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity under this paragraph would exceed five percent (5%) of the company's admitted assets (but in calculating the amount sold to or purchased from a business entity under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or
- (2) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this paragraph would exceed forty percent (40%) of the admitted assets of the company (provided, however, that this limitation does not apply to a reverse repurchase transaction if the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and is subject to a plan approved by the commissioner).

G. The following collateral requirements apply to all transactions under this paragraph:

- (1) In a securities lending transaction, the life insurance company

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must receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than the market value of all securities loaned by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all securities lending transactions with that business entity, equals at least one hundred two percent (102%) of the market value of the loaned securities.

(2) In a reverse repurchase transaction, other than a dollar roll transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date equal to at least ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than ninety-five percent (95%) of the market value of all securities transferred by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(3) In a dollar roll transaction, the life insurance company must receive cash in an amount at least equal to the market value of the securities transferred by the company in the transaction as of the transaction date.

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market

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value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

- (A) sold in a reverse repurchase transaction;
- (B) loaned in a securities lending transaction; or
- (C) otherwise pledged.

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

- (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or
- (b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

For the purposes of this paragraph 30, collateral may be substituted for other collateral if it is in the same amount with the same or greater interest rate and qualifies as collateral under subparagraph (a) or (b) of this paragraph.

30.(A) A life insurance company may invest in obligations or interests in trusts or partnerships, regardless of the issuer, secured by any form of collateral other than that described in subparagraphs (a) and (b) of paragraph 30 of this subsection, which obligations or interests in trusts or partnerships are rated:

- (a) A- or higher by Standard & Poor's Corporation or Duff and Phelps, Inc.;
- (b) A 3 or higher by Moody's Investor Service, Inc.; or
- (c) 1 by the Securities Valuation Office.

Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

31.A. A life insurance company may invest in short-term pooling arrangements as provided in this paragraph.

B. The following definitions apply throughout this paragraph:

- (1) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.
- (2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by

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the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Qualified bank" means a national bank, state bank, or trust company that at all times is not less than adequately capitalized as determined by standards adopted by United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

C. A life insurer may participate in investment pools qualified under this paragraph that invest only in:

(1) obligations that are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office, and have:

(A) a remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

(B) a remaining maturity of three (3) years or less and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index (for example, federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) government money market mutual funds or class one money market mutual funds; or

(3) securities lending, repurchase, and reverse repurchase and dollar roll transactions that meet the requirements of paragraph 29 of this subsection and any applicable regulations of the department;

provided that the investment pool shall not acquire investments in any

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one (1) business entity that exceed ten percent (10%) of the total assets of the investment pool.

D. For an investment pool to be qualified under this paragraph, the investment pool shall not:

- (1) acquire securities issued, assumed, guaranteed, or insured by the life insurance company or an affiliate of the company; or
- (2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of paragraph 29 of this subsection.

E. A life insurance company shall not participate in an investment pool qualified under this paragraph if, as a result of and after giving effect to the participation, the aggregate amount of participation then held by the company in all investment pools under this paragraph and section 2.4 of this chapter would exceed thirty-five percent (35%) of its admitted assets.

F. For an investment pool to be qualified under this paragraph:

- (1) the manager of the investment pool must:
  - (A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and
  - (B) be the life insurance company, an affiliated company, a business entity affiliated with the company, or a qualified bank or a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-I et seq.);
- (2) the pool manager or an entity designated by the pool manager of the type set forth in subdivision (1) of this subparagraph F shall compile and maintain detailed accounting records setting forth:
  - (A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;
  - (B) a complete description of all underlying assets of the investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and
  - (C) other records which, on a daily basis, allow third parties to verify each participant's interest in the investment pool; and
- (3) the assets of the investment pool shall be held in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement or trust agreement with a qualified bank, which must:
  - (A) state and recognize the claims and rights of each participant;
  - (B) acknowledge that the underlying assets of the investment

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pool are held solely for the benefit of each participant in proportion to the aggregate amount of its participation in the investment pool; and

(C) contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

G. The pooling agreement for an investment pool qualified under this paragraph must be in writing and must include the following provisions:

(1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of such insurers or their subsidiaries or affiliates, shall, at all times, hold one hundred percent (100%) of the interests in the investment pool.

(2) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person.

(3) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(A) each participant owns an undivided interest in the underlying assets of the investment pool; and

(B) the underlying assets of the investment pool are held solely for the benefit of each participant.

(4) A participant or (in the event of the participant's insolvency, bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one

(1) of the following forms, at the discretion of the pool manager:

(A) in cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(B) in kind, a pro rata share of each underlying asset; or

(C) in a combination of cash and in kind distributions, a pro rata share in each underlying asset.

(6) The records of the investment pool shall be made available for inspection by the commissioner.

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SECTION 2. IC 27-1-17-4, AS AMENDED BY P.L.268-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law:

- (a) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.
- (b) An application for admission, executed in the manner provided in this chapter, setting forth:
  - (1) the name of such company;
  - (2) the location of its principal office or place of business without this state;
  - (3) the names of the states in which it has been admitted or qualified to do business;
  - (4) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;
  - (5) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;
  - (6) the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;
  - (7) if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and
  - (8) such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president

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and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(c) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(d) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(e) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(f) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

~~(g) Copies of forms of all policies which the insurance company proposes to issue in this state and also copies of the forms of application for such policies.~~

~~(h)~~ (g) A duly executed power of attorney in a form prescribed by the department which constitutes and appoints an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent, its true and lawful attorney upon whom all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process against it which may be served upon the agent as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment

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and authorizing the execution of said power of attorney. Service of any lawful process shall be by delivering to and leaving with the agent two (2) copies of such process, with copy of the pertinent complaint attached. The agent shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the agent and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The agent shall make information and receipts available to plaintiff, defendant or their attorneys. No plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

(†) (h) Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 3. IC 27-1-23-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2.6. (a) As used in this section, "entity" means:**

- (1) a sole proprietorship;**
- (2) a corporation;**
- (3) a limited liability company;**
- (4) a partnership;**
- (5) an association;**
- (6) a joint stock company;**
- (7) a mutual fund;**
- (8) a joint venture;**
- (9) a trust;**
- (10) a joint tenancy;**

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(11) an unincorporated organization; or

(12) a similar entity.

(b) As used in this section, "primary company" means a domestic insurance company that beneficially owns more than fifty percent (50%) of one (1) or more subsidiary companies.

(c) As used in this section, "subsidiary company" means an entity of which more than fifty percent (50%) is beneficially owned by an insurance company.

(d) As used in this section, "total investment of the primary company" means the total of:

(1) a direct investment by a primary company in an asset; plus

(2) the primary company's proportionate share of an investment made by a subsidiary company of the primary company.

The primary company's proportionate share must be determined by multiplying the amount of the subsidiary company's investment by the percentage of the primary company's ownership interest in the subsidiary company.

(e) A primary company may, independently or in cooperation with another person, organize or acquire one (1) or more subsidiary companies.

(f) A subsidiary company of a primary company may conduct business of any kind, and the authority to conduct the business is not limited because of the status of the subsidiary company as a subsidiary company of the primary company.

(g) In addition to investments in common stock, preferred stock, debt obligations, and other securities as permitted under IC 27-1-12-2 or IC 27-1-13-3, a primary company to which this section applies may, directly or through one (1) or more subsidiary companies, also do the following:

(1) Invest in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiary companies, amounts that in total do not exceed the lesser of ten percent (10%) of the primary company's admitted assets or fifty percent (50%) of the primary company's surplus as regards policyholders, if, after the investments, the primary company's surplus as regards policyholders is reasonable in relation to the primary company's outstanding liabilities and adequate to the primary company's financial needs. In calculating the amount of investments permitted under this subdivision:



**(A) investments, whether made directly or through one (1) or more subsidiary companies, in domestic or foreign insurance subsidiary companies and health maintenance organizations must be excluded; and**

**(B) to the extent that expenditures relate to an investment other than an investment described in clause (A), the following must be included:**

**(i) Total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary company, including all organizational expenses and contributions to capital and surplus of the subsidiary company, whether or not represented by the purchase of capital stock or issuance of other securities.**

**(ii) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary company subsequent to the subsidiary company's acquisition or formation.**

**(2) Notwithstanding subdivision (1), invest an amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiary companies engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the primary company, if the subsidiary company agrees to limit the subsidiary company's investment in an asset so that, when combined with the investments of the primary company, the total investment of the primary company will not exceed the investment limitations described in subdivision (1) or in any applicable provision of IC 27-1-12-2 or IC 27-1-13-3.**

**(3) Notwithstanding subdivision (1), with the prior approval of the commissioner, invest a greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiary companies, if, after the investment, the primary company's surplus as regards policyholders is reasonable in relation to the primary company's outstanding liabilities and adequate to the primary company's financial needs.**

**(h) Investments that are made under this section in common stock, preferred stock, debt obligations, or other securities of a subsidiary company are not subject to restrictions or prohibitions under IC 27-1-12-2 or IC 27-1-13-3 that otherwise apply to investments of primary companies.**

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(i) Before a primary company to which this section applies makes an investment described in subsection (g), a primary company shall make a determination regarding whether the proposed investment meets the applicable requirements by determining the applicable investment limitations as though the investment has been made, considering:

- (1) the currently outstanding principal balance on previous investments in debt obligations; and
- (2) the value of previous investments in equity securities as of the day that the investments in equity securities were made; net of any return of capital invested.

(j) If a primary company ceases to control a subsidiary company, the primary company shall dispose of any investment in the subsidiary company made under this section not more than:

- (1) three (3) years from the time of the cessation of control; or
- (2) the period determined appropriate by the commissioner; unless the investment meets the requirements for investment under any applicable provision of IC 27-1-12-2 or IC 27-1-13-3 and the primary company has notified the commissioner that the investment meets the requirements.

(k) A primary company, at the time of establishing a subsidiary company, must possess:

- (1) assets of not less than twenty-five million dollars (\$25,000,000); or
- (2) not less than three million five hundred thousand dollars (\$3,500,000) of:
  - (A) combined capital and surplus in the case of a stock company; and
  - (B) surplus in the case of a mutual company.

(l) The department has the power to:

- (1) conduct periodic examinations of a subsidiary company;
- (2) require reports that reflect the effect of the condition and operation of a subsidiary company on the financial condition of a primary company; and
- (3) make additional examinations or require other reports with respect to a subsidiary company that are necessary to carry out the purposes of this section.

A noninsurance subsidiary company shall annually furnish the department financial statements that are prepared under generally accepted accounting principles and certified by an independent certified public accountant and the department may rely on the statements. If a subsidiary company conducts the business of the

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subsidiary company in a manner that clearly tends to impair the capital or surplus fund of the primary company, or otherwise makes the operation of the primary company financially unsafe, the department may act under IC 27-1-3-19 with respect to the primary company.

(m) A primary company and a subsidiary company shall, in all respects, stand before the law as separate and distinct companies and neither company is liable to the creditors, policyholders, or stockholders of the other company, acts or omissions of an officer, director, stockholder, or member of either company notwithstanding.

(n) The board of directors and officers of a primary company and a subsidiary company may be identical. However, the affairs of each company shall be carried on separate and distinct from the other company.

(o) A foreign subsidiary company shall be treated in the same manner as other foreign companies, except that the treatment may be withheld or suspended with respect to a subsidiary company that is domiciled in a state that does not treat a:

- (1) primary company; or
- (2) subsidiary company;

that is domiciled in Indiana in a manner equal to a foreign or domestic company doing business in the other state.

(p) Interests in a subsidiary company that are owned by a primary company must be registered in the name of the primary company except for shares that are required under Indiana law to be registered in the name of another person.

SECTION 4. [EFFECTIVE JULY 1, 2001] IC 27-2-9 IS REPEALED.

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\_\_\_\_\_  
Speaker of the House of Representatives

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President of the Senate

\_\_\_\_\_  
President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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